14018

Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Astro-Med, Inc.

File: B-235651.2

Date: December 11, 1989

DIGEST

Where an invitation for bids (IFB) requires descriptive literature to establish that offered products conform to the IFB specifications, the contracting agency properly rejected as nonresponsive a bid that included a brochure which contained conflicting information as to whether the item offered was compliant and a "technical proposal" which consisted of the bidder's listing of IFB specifications. Such a list is no better than a blanket offer of compliance for purpose of permitting agency to determine whether offered product meets specifications and does not cure the ambiguous brochure.

DECISION

Astro-Med, Inc., protests the rejection of its bid under invitation for bids (IFB) No. 9-BE4-16-9-27B, issued by the National Aeronautics and Space Administration (NASA) for the procurement of eight-channel thermal array recorders and two sets of maintenance/operation manuals. NASA rejected Astro-Med's bid after determining that the descriptive literature submitted with the bid did not show that the firm's offered recorder met the specifications.

We deny the protest.

The IFB included detailed specifications concerning the recorder's printed record, chart drive, data, controls and display, printheads and other features. The IFB also included a descriptive literature clause which required each bidder to submit with its bid literature to establish that the product offered conformed to the IFB requirements. Under that clause, failure of the literature to show compliance required rejection of the bid.

Three firms submitted bids. Foxboro was low at $38,868, Astro-Med was next at $76,661.20 and Western Graphtec, Inc. highest at $77,804.40. Astro-Med's bid included as descriptive literature a brochure for its Model MT-9500 recorder and also included a four page "technical proposal" specifically prepared for this procurement. The "technical proposal" stated that Astro-Med offered its Model MT-9503R recorder1/ and included essentially a verbatim listing of the IFB specifications. The "technical proposal" also included the statement: "Please note that the specifications presented herewith take precedence over all other printed literature included with our proposal."

NASA rejected the low bid and Astro-Med's bid as nonresponsive. According to the agency, Astro-Med's bid did not include sufficient information to demonstrate that the offered recorder met five specific requirements of the IFB: an alphanumeric panel, a printhead capable of 1,600 dots per second, a listing of recorder settings at the end of each printed record, a battery backup and field replaceable printheads.

Astro-Med argues that its bid met all of the requirements of the IFB and should not have been rejected. In this respect, the protester states that NASA officials ignored the statement in its "technical proposal" that the document was to take precedence over the printed literature and instead evaluated the bid primarily based on the brochure. According to Astro-Med, its "technical proposal" addressed every requirement of the IFB. Further, the protester maintains that it is a qualified manufacturer of recorders and, for that reason, there should be no need for the firm to submit voluminous information with its bid.

Where descriptive literature is required to establish a bid's conformance with the IFB specifications, and bidders are so cautioned, the bid must be rejected as nonresponsive if the literature submitted fails to show clearly that the offered product conforms to the specifications. Systems Integrated, B-225700, May 8, 1987, 87-1 CPD ¶ 494. This is so even if the offered product in fact possesses the required features. Harnischfeger Corp., B-220036, Dec. 19, 1985, 85-2 CPD ¶ 689. A blanket promise that the product being offered will conform to any specific requirement of the specifications is insufficient as a substitute for

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1/ It appears that Model MT-9503R is one model in Astro-Med's MT-9500 line of recorders.

adequate literature. IRT Corp., B-233134, Feb. 21, 1989, 89-1 CPD ¶ 216. We will not disturb the agency's determination concerning the adequacy of required descriptive literature unless it is unreasonable. Systems Integrated, B-225700, supra.

As indicated earlier, NASA found that Astro-Med's bid failed to show that the proposed recorder met the five IFB requirements. For example, the agency concluded that the literature did not demonstrate that Astro-Med's recorder had a printhead "capable of printing up to 1,600 dots/second in the time axis" as required by the IFB. NASA states that Astro-Med's printed brochure, which was submitted with the bid, was ambiguous with respect to print speed. One page of the brochure stated that the Astro-Med recorder had a time axis resolution of "16 dots/mm @ 100 mm/sec," which, according to NASA, is acceptable. On the other hand, another page of the brochure stated that the printhead only "receives 1,000 print commands per second," which NASA states is not acceptable since a printhead that receives only 1,000 commands per second cannot print 1,600 dots per second. Astro-Med's "technical proposal," which the firm prepared specifically for this solicitation, repeated the IFB requirement for print speed, but included no technical discussion.

In response, Astro-Med refers to the statement in the printed brochure that the recorder has a time axis resolution of 16 dots/mm at 100 mm/second and argues that this shows compliance. Astro-Med further argues that its bid met this requirement because its "technical proposal," which stated that it was to take precedence over the printed brochure, listed a dot density of 1,600 dots per second.

We agree with NASA that Astro-Med's bid was ambiguous as to whether the recorder offered met the dot density requirement. First, although Astro-Med's printed brochure indicated compliance with the dot density requirement on one page, elsewhere it stated that the recorder printhead could only receive 1,000 commands per second. Astro-Med does not disagree with NASA's conclusion that a printhead which receives only 1,000 commands per second cannot achieve a 1,600 dot per second print speed. Since Astro-Med's brochure indicated that the offered recorder may or may not comply with the dot density requirement, the effect of that submission was to render the bid ambiguous. See Systems Integrated, B-225700, supra.

Further, in our view, Astro-Med's "technical proposal," which consisted of little more than a repetition of the IFB specifications, did not cure the problem raised by the

ambiguous brochure. The "technical proposal" was no better than a blanket offer of compliance for purposes of permitting NASA to determine for itself whether the offered product met the specifications. In this respect, we believe that, where an IFB requires descriptive literature to show that offered products conform to the specifications, a bidder provides no measurable degree of assistance to an agency evaluating the bid by supplying it with a list of the same specifications that the agency included in the solicitation. See Interand Corp.--Reconsideration, B-224512.3 et al., Apr. 17, 1987, 87-1 CPD ¶ 421. We therefore think that the bid was ambiguous and was properly rejected.

Since we agree with NASA that the failure of Astro-Med's bid to show that the recorder met the dot density requirement was a sufficient basis upon which to reject Astro-Med's bid as nonresponsive, there is no reason to consider the agency's other reasons.

The protest is denied.

James F. Hinchman
General Counsel